

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MITCHELL GATEWOOD,

Petitioner,

v. // CIVIL ACTION NO. 1:11CV34
(Judge Keeley)

WARDEN KUMA DEBOO, et al.,

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 15)
AND DISMISSING MANDAMUS PETITION WITHOUT PREJUDICE

On May 17, 2011, United States Magistrate Judge James E. Seibert issued a Report and Recommendation ("R&R"), concluding that this petition for mandamus under 28 U.S.C. § 1361 should be denied without prejudice because the pro se petitioner, Mitchell Gatewood ("Gatewood"), had failed to exhaust his administrative remedies within the Bureau of Prisons prior to filing his petition. The R&R also noted that Gatewood cannot satisfy the requirements of § 1361 because the alternative remedy of a civil rights action against the defendants is available to him once he properly exhausts his administrative remedies.

Gatewood did not file objections to the R&R, and the time to do so has expired. The Court therefore **ADOPTS** the R&R in its entirety, and **DISMISSES** the petition **WITHOUT PREJUDICE**.

It is so **ORDERED**.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court directs the Clerk to enter a separate judgment order and to transmit copies of it and this Order to all appropriate agencies, and to the pro se petitioner via certified mail, return receipt requested.

Dated: July 22, 2011.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE